

CALENDAR ITEM

C23

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02/20/15

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PRC 3599.1

M. Schroeder

**TERMINATION OF A RECREATIONAL PIER LEASE AND ISSUANCE OF A
GENERAL LEASE – RECREATIONAL USE**

LESSEES:

Timothy H. Martin and Kristine Martin as Trustees of the Timothy H. Martin and Kristine Martin 1981 Living Trust Agreement; The Jane G. Wheeler Exemption Trust, under Amended and Restated Revocable Trust Agreement dated December 11, 1995; John Dorsey Wheeler III; Janet Ann Wheeler Wilson; Judith Gwerder Wheeler Culbertson; Jill Marie Wheeler Callis; Marshall D. Kraus and Nancy Fiddymment Kraus, Trustees of the Marshall D. Kraus and Nancy Fiddymment Kraus Revocable Trust originally dated November 12, 1982, as revised and restated November 4, 1993

APPLICANTS:

Domingo Properties, LLC; David J. Saca; Purple Hour, LLC, a California Limited Liability Company

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 3755, 3765, and 3775 Bellevue Avenue, near Homewood, Placer County.

AUTHORIZED USE:

Continued use and maintenance of an existing joint-use pier, two boat lifts, and three mooring buoys.

LEASE TERM:

10 years, beginning July 1, 2014.

CONSIDERATION:

\$1,321 per year, with an annual Consumer Price Index (CPI) adjustment.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

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Other:

1. The proposed lease contains a provision requiring the Applicants to obtain authorization from the Tahoe Regional Planning Agency (TRPA) for the mooring buoys within two years after the adoption of a Final Environmental Impact Statement (FEIS) for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. This is a continuation of the process the Commission used from approximately 1995 to October 2008 when TRPA adopted an FEIS and Ordinance Amendments supported by the FEIS. In September 2010, the U.S. District Court invalidated the FEIS and nullified the Amendments. When additional information is available, Commission staff will advise the Commission on any suggested modifications to the process used by the Commission pending resolution of the TRPA FEIS and amended ordinance issues.
2. Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.

OTHER PERTINENT INFORMATION:

1. Applicants own the upland parcels, Assessor's Parcel Numbers (APN) 085-202-007, 085-202-008, and 085-202-009, adjoining the lease premises.
2. On August 11, 2009, the Commission authorized a Recreational Pier Lease to Timothy H. Martin and Kristine Martin as Trustees of the Timothy H. Martin and Kristine Martin 1981 Living Trust Agreement; The Jane G. Wheeler Exemption Trust, under Amended and Restated Revocable Trust Agreement dated December 11, 1995; John Dorsey Wheeler III; Janet Ann Wheeler Wilson; Judith Gwerder Wheeler Culbertson; Jill Marie Wheeler Callis; Marshall D. Kraus and Nancy Fiddymment Kraus, Trustees of the Marshall D. Kraus and Nancy Fiddymment Kraus Revocable Trust originally dated November 12, 1982, as revised and restated November 4, 1993. That lease will expire on July 18, 2018.
3. On July 27, 2011, APN 085-202-007 was deeded to Domingo Properties, LLC. On June 10, 2013, APN 085-202-009 was deeded to Purple Hour, LLC. On July 1, 2014, APN 085-202-008 was deeded to David J. Saca. The Applicants are now applying for a General Lease – Recreational Use. Staff is recommending termination of the existing lease because the Lessees cannot be located for execution of a lease quitclaim deed.

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4. Staff recommends that the Commission accept rent in the amount of \$1,523 for the period beginning July 27, 2011, when Domingo Properties, LLC took ownership of APN 085-202-007, through June 30, 2014, and \$537 for the period beginning June 10, 2013, when Purple Hour, LLC, a California Limited Liability Company, took ownership of APN 085-202-009, through June 30, 2014. Domingo Properties, LLC and Purple Hour, LLC, a California Limited Liability Company did not qualify for rent-free status pursuant to the provisions of Public Resources Code section 6503.5 in effect at that time.
5. **Lease Termination:** The staff recommends that the Commission find that the subject lease termination does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

6. **Issuance of Lease:** The staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

CALENDAR ITEM NO. **C23** (CONT'D)

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Lease Termination:

Find that the subject lease termination is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

Issuance of Lease:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

1. Authorize termination, effective June 30, 2014, of Lease No. PRC 3599.9, a Recreational Pier Lease, to Timothy H. Martin and Kristine Martin as Trustees of the Timothy H. Martin and Kristine Martin 1981 Living Trust Agreement; The Jane G. Wheeler Exemption Trust, under Amended and Restated Revocable Trust Agreement dated December 11, 1995; John Dorsey Wheeler III; Janet Ann Wheeler Wilson; Judith Gwerder Wheeler Culbertson; Jill Marie Wheeler Callis; Marshall D. Kraus and Nancy Fiddymont Kraus, Trustees of the Marshall D. Kraus and Nancy Fiddymont Kraus Revocable Trust originally dated November 12, 1982, as revised and restated November 4, 1993.
2. Authorize acceptance of rent in the amount of \$1,523 from Domingo Properties, LLC for the period of July 27, 2011 through June 30, 2014.
3. Authorize acceptance of rent in the amount of \$537 from Purple Hour, LLC, a California Limited Liability Company, for the period of June 10, 2013 through June 30, 2014.

CALENDAR ITEM NO. **C23** (CONT'D)

4. Authorize issuance of a General Lease – Recreational Use to Domingo Properties, LLC; David J. Saca; and Purple Hour, LLC, a California Limited Liability Company, beginning July 1, 2014, for a term of 10 years, for the continued use and maintenance of an existing joint-use pier, two boat lifts, and three mooring buoys, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$1,321 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 3599.1

LAND DESCRIPTION

Four (4) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 2 fractional Section 36, Township 15 North, Range 16 East, MDM., as shown on Official Government Township Plat, approved April 11, 1884 County of Placer, State of California, and more particularly described as follows:

PARCEL 1 – JOINT- USE PIER

All those lands underlying an existing joint-use pier and two (2) boat lifts lying adjacent to those lots as described in that Grant Deed recorded July 27, 2011 in Document 2011-0057447, in that Grant Deed recorded June 10, 2013 in Document 2013-0056480 and in that Grant Deed recorded July 1, 2014 in Document 2014-0044234 of Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion(s) lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

PARCELS 2, 3 & 4 – BUOYS (3)

Three (3) circular parcels of land being 50 feet in diameter, underlying three (3) existing buoys lying adjacent to said parcels.

Accompanying plat is hereby made a part of this description.

END OF DESCRIPTION

Prepared November 14, 2014 by
the California State Lands Commission Boundary Unit.



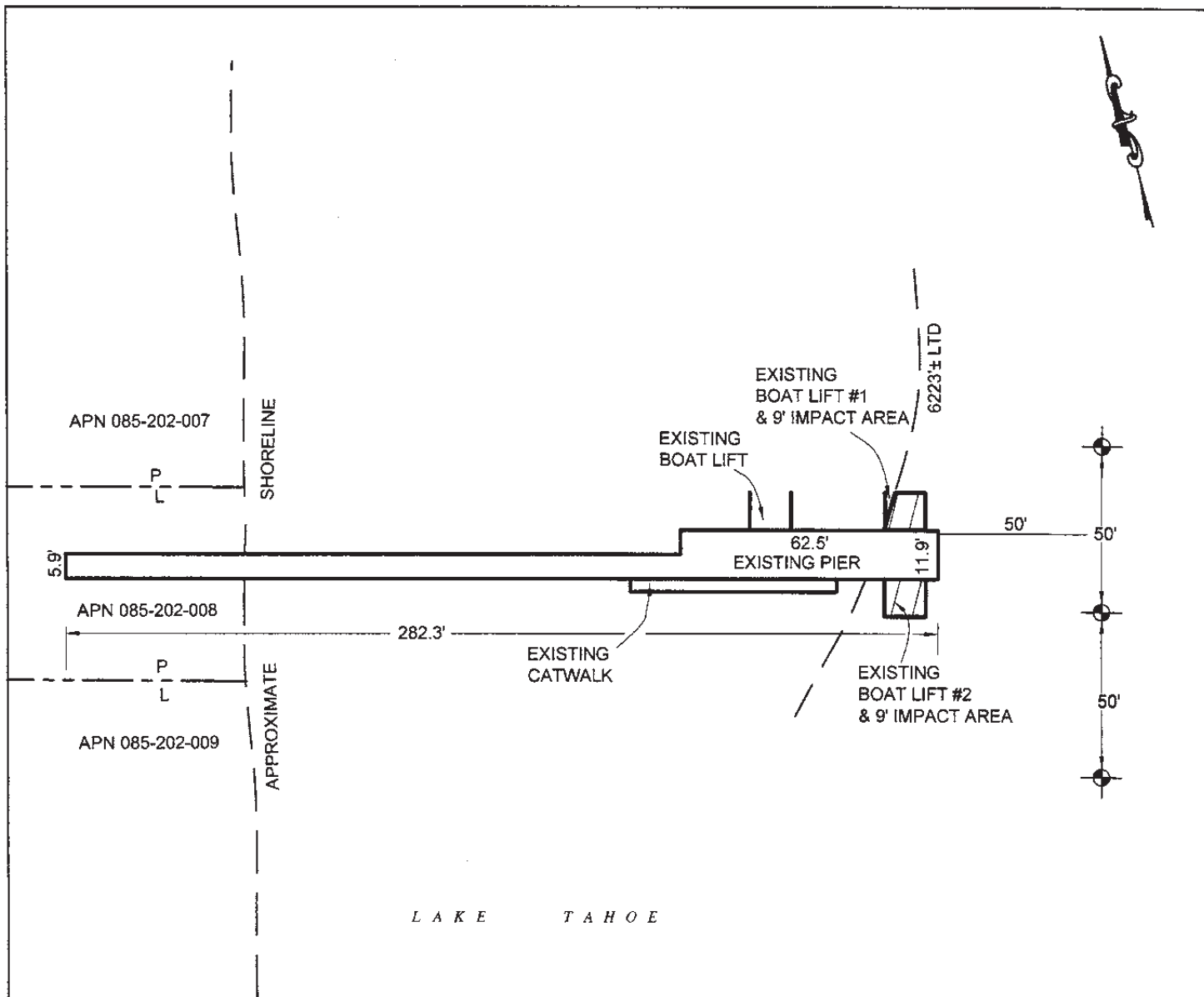


EXHIBIT A

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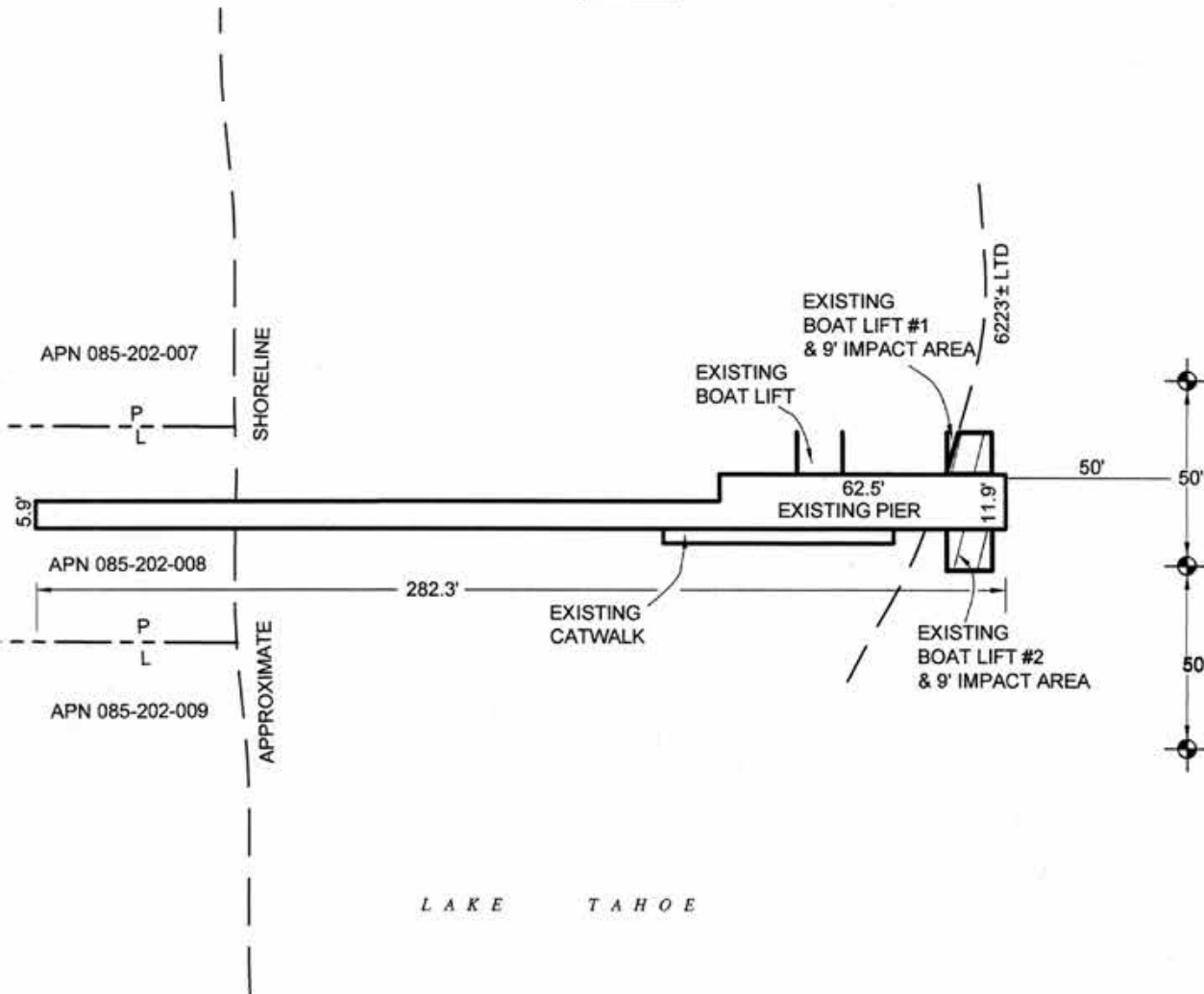
LAND DESCRIPTION PLAT
 PRC 3599.1, DOMINGO PROPERTIES, LLC/
 SACA/ PURPLE HOUR, LLC
 PLACER COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

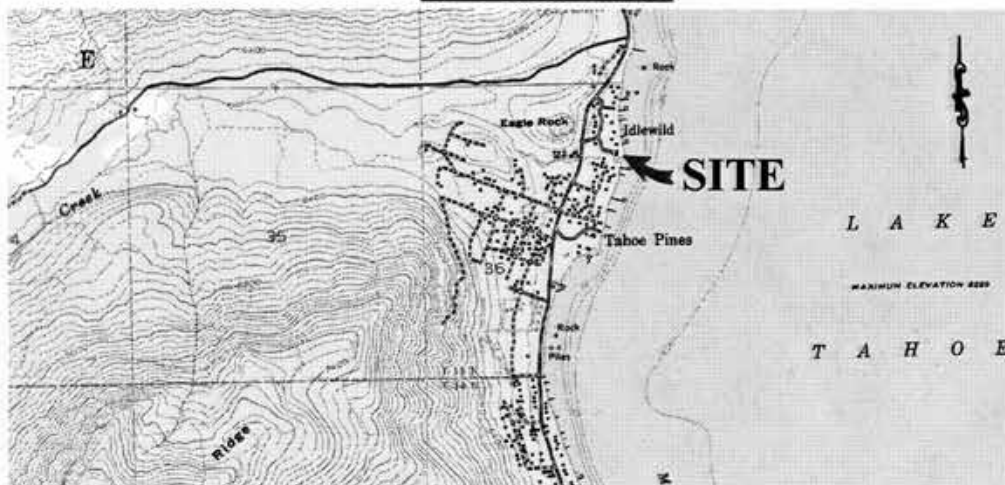
SITE



3755, 3765 & 3775 BELLEVIEW AVENUE, NEAR HOMEWOOD

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 3599.1
DOMINGO PROP., LLC/
SACA/PURPLE HOUR, LLC
APNS 085-202-007, 008 & 009
GENERAL LEASE -
RECREATIONAL USE
PLACER COUNTY



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